

Workers' Comp Regulatory Activity

June 15, 2020 – August 1, 2020

CALIFORNIA

Reg ID: CA39798

Issues: Workers' Compensation Pharmacy Fee Schedule

Summaries: The Division drafted regulations that would align the workers' compensation pharmacy fee schedule with the new Medi-Cal pharmacy fee schedule. Specifically, this includes the following changes: elimination of the Average Wholesale Price (AWP) minus 17 percent as a benchmark for the drug ingredient; revised methodology for payment of drug ingredients to align with the new Medi-Cal system and adopts a bifurcated Medi-Cal dispensing fee structure for pharmacies (which increases the dispensing fee from \$7.25 to \$10.05 or to \$13.20 for pharmacies listed as Medi-Cal); and addresses fees for compounded drugs and repackaged drugs. With regards to physician dispensing of compounded drugs, the maximum reasonable fees will be lower of:

- (1) 300 percent of document paid costs for the drug ingredients, but not more than \$20.00 above the documented paid costs; or
- (2) The drug ingredient cost (determined by subdivision (c), plus the compounding and sterility fees, if applicable.

The draft rule will amend the workers' compensation pharmaceutical fee schedule to align with the Labor Code section 5307.1 and Medi-Cal payment system changes. The updates provide information for pharmacy dispensed and physician dispensed pharmaceuticals and set forth fee caps for some physician dispensed pharmaceuticals.

The following sections are being updated:

Section 9789.12.1 Physician Fee Schedule: Official Medical Fee Schedule for Physician and Non-Physician Practitioner Services – For Services Rendered on or After January 1, 2014.

Section 9789.13.2 Physician-Administered Drugs, Biologicals, Vaccines, Blood Products

Section 9789.13.3 Physician-Dispensed Drugs

Section 9789.40. Pharmacy – Pharmaceuticals Dispensed and Pharmaceutical Services Rendered Prior to XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Section 9789.40.1 Pharmaceuticals Dispensed and Pharmaceutical Services Rendered By a Pharmacy on or after XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Note: This information is neither intended to be all-inclusive for the industry, nor for public redistribution. Please feel free to send your questions, comments, suggestions, and requests for further information to Coventry at Regulatory@cvtv.com.

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Section 9789.40.2 Compounded Pharmaceuticals Dispensed By a Pharmacy on or after XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Section 9789.40.3 Miscellaneous Provisions - Pharmaceuticals Dispensed By a Pharmacy on or after XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Section 9789.40.4 Pharmaceuticals Dispensed By a Physician on or after XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Section 9789.40.5 Compounded Pharmaceuticals Dispensed By a Physician on or after XXX XX, 2020 (date to be updated 60 days after filed and approved by OAL)

Section 9789.111. Effective Date of Fee Schedule Provisions

What Just Happened: Staff published notice of the updated draft rule for public review.

Links:

- [Public Forum 2020 Website](#)
- [Draft 2020 Rule Text:](#)
- [Draft Rule Notice June 2020](#)

KENTUCKY

Reg ID: KY52759

Issues: Workers' Compensation Provider Issues

Summaries: The Division adopted new treatment guidelines and provides guidance to implement them. The rules provide practice parameters or evidence-based treatment guidelines for medical treatment for use by medical providers. This regulation adopts treatment guidelines for treatment provided for the cure of and relief of a work injury or occupational disease and provides guidance for its implementation and use. The new rule includes: (1) definitions; (2) purpose and adoption; (3) application; (4) preauthorization; and (5) effective dates. The Division issued an Administrative Order which suspends the effective date of the guidelines until 1/1/2021.

What Just Happened: The Division finalized the rule and it is effective 6/2/2020. The Division issued an Administrative Order which suspends the effective date of the guidelines until 1/1/2021. Final rules are not published in the Kentucky Register.

Links:

- [Administrative Order](#)
- [Final Rule](#)
- [Notice of rule amended after comments and ARRS review \(pdf pgs. 5 and 95\)](#)
- [Department's response to comments](#)
- [Notice of removal from ARRS review and comments received \(pdf pg. 8\)](#)
- [Notice of ARRS review \(pdf pg. 7\)](#)
- [Notice of proposed rule \(pdf pg. 326\)](#)

LOUISIANA

Reg ID: LA56034

Issues: Workers' Compensation Coverage

Summaries: The Office proposed amendments to the chronic pain disorder medical treatment guidelines. The proposed amendments apply to health care providers who provide services to patients receiving workers' compensation.

§2111(C): The adopted amendments update the rule section regarding therapeutic procedures and provide that if a diagnosis is consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) then the patient should be evaluated to determine if psychiatric medication is necessary. The amendments also provide that management of psychiatric medications are medical services and not part of psychosocial treatment.

What Just Happened: The Department published notice of the final rule in the Louisiana Register. The final rule is effective 6/20/2020.

Links:

- [Final Rule \(doc. pp. 797-798\)](#)
- [Proposed Rule \(pdf p. 482\)](#)

MONTANA

Reg ID: MT56889

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Department adopted amendments to the medical fee schedules for workers' compensation purposes. The fee schedule references are updated to provide for dates into June 2020. Further, the references to the "Montana Workers' Compensation Facility Fee Schedule Instruction Set" is for the effective date of 7/1/2020. It adds that as of 7/1/2020 the base rate is \$8,909, an increase from \$8,599 that ends 6/30/2020. Additionally, payments for inpatient acute care hospital services formula remains the same, the references the increase rates laid out above.

The new fee schedule is references for being effective 7/1/2020 as well. Lastly, the conversion factors for services as of 7/1/2020 will now be \$63.41, an increase from \$64.04 under section 2. And under section 3, the 7/1/2020 is increased from \$69.58 to \$67.32.

What Just Happened: The Department published notice of the final rule in the register.

Links:

- [Notice of final rule \(pdf Pg. 11\)](#)
- [Notice of proposed rule \(pdf Pg. 7\)](#)

NEW YORK

Reg ID: NY55929

Issues: Workers' Compensation Prescription Drug Formulary

Summaries: The Board adopted emergency amendments and final rule amendments to its Prescription Drug Formulary. The final rule amendments are identical to the emergency rule amendments.

Specifically, the Board updates Section 441.2 of Title 12 NYCRR to reference the 3/3/2020 fourth edition of the New York Workers' Compensation Formulary. The previous version of the rule referenced the 11/20/2019 edition.

What Just Happened: The Board published notice of a final rule in the 6/17/2020 Register. The final rule is effective 6/17/2020.

Links:

- [Final Rule \(Doc. Pg. 24\)](#)
- [Emergency and Proposed Rule \(Doc. Pg. 33\)](#)

OHIO

Reg ID: OH59133

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Bureau drafted amendments which would update the medical provider services fee schedule. The draft amendments update the effective date for the fee schedule to be 1/1/2021. Pursuant to division (A)(1)(h) of section 4121.441 of the Revised Code, the administrator of workers' compensation, with the advice and consent of the Bureau, develop, maintain, and publish provider fee schedules. The updated fee schedule would update reimbursement methodology for the following services: 1) anesthesia; 2) surgery; 3) radiology; 4) pathology; 5) physical medicine; 6) and 7) general medicine.

What Just Happened: The Bureau drafted a new fee schedule rule and solicited comments from stakeholders via electronic mail.

Links:

- [Professional Provider Medical Services Fee Schedule](#)
- [Draft Rule 4123-6-08](#)

SOUTH DAKOTA

Reg ID: SD58490

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Division proposed rule amendments which would update rules governing workers' compensation provider fee schedules. The proposed amendments would apply to healthcare providers that seek reimbursement for services rendered to individuals receiving workers' compensation.

47:03:05:01: The rule amendments would add the following terms to the rule definition section: 1) "relative values for physicians"; and 2) "relative values for dentists."

47:03:05:02: The rule amendments would update the reference for relative values for physicians.

What Just Happened: The Division published notice of the proposed rule in the South Dakota Register.

Links:

- [Rulemaking Page](#)
- [Public Hearing Notice](#)
- [Notice of Proposed Rule](#)
- [Proposed Rule](#)

WYOMING

Reg ID: WY59186

Issues: Workers' Compensation Provider Fee Schedule


Summaries: The Department has proposed amendments to the rule regarding worker's compensation fee schedules. The amendments update relative values for physicians and dentists, anesthesia conversion factor, facility fees, among others.

Specifically, the amendments include: 1) Adding the Centers for Medicare and Medicaid Services (CMS) as one of the medical resources and publications to aid in adjudicating bills; 2) Adding "Professional Fees" to Section 2(c); 3) Updating Anesthesia conversion factor from \$51.12 to \$51.06; 4) Updating Section 4 - Fees for Supplies, Implants, Durable Medical Equipment (DME) Orthotics and Prosthetics by adopting the Wyoming Medicare rate plus 30% of the Healthcare Common Procedure Coding System; 5) Updating Section 6 - Fees for Pharmacy Items by adding to refer to the nutritional supplements section in Chapter 10, Section 18 for additional information; 6) Updating Section 8 - Fees for Ambulance Services by adding that the Division adopts CMS Medicare rates plus 10%;

The Division updates codes to the header Maximum Allowable "Medicare plus 10%." Additionally, the Division has added the following new sections: (1) Fees for Inpatient Hospital Services; (2) Fees for Skilled Nursing Services; (3) Fees for Inpatient Rehabilitation Services; (4) Fees for Ambulatory Surgery Services; and (5) Fees for Outpatient Facility Services.

What Just Happened: The Department published notice of the proposed rule.

Links: [Notice of Proposed Rule \(redlined\)](#)

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